

Controller, Amanat Hai Mazhabi Vs Wahid Ali Khan and others

Court: Madhya Pradesh High Court

Date of Decision: Dec. 30, 1955

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Order 47 Rule 1

Hon'ble Judges: Mathur, J.C.

Bench: Single Bench

Advocate: Ram Panjwani, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

Mathur, J.C.

1. This is an application by the Controller Amanat Hai Mazhabi wa Khairati, Bhopal, plaintiff for rehearing the parties. (After dealing with the facts

of the case the learned Judicial Commissioner proceeded.)

2. I would now briefly comment upon the merits of the application. As far as the parties are concerned, the judgment is final when it has been

dictated in open Court or the Court has indicated impliedly or expressly what orders are being passed in the case; and it is open to the Court only,

if it considers necessary, to change the judgment for the reason that a judgment though dictated is not final unless duly signed and pronounced.

Thus no party can claim a rehearing as a matter of right.

To the most it can be said in favour of such a party that if it is able to make out a case for review of judgment or order under O. 47, R. 1, C. P. C.,

the party may be reheard to avoid its moving a review application after the judgment or order has been signed. A review application lies only on

the following grounds:

(i) From the discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the

applicant or could not be produced by him at that time when the decree was passed or order made; or

(ii) On account of some mistake or error apparent on the face of the record; or

(iii) For any other sufficient reason.

The words ""for any other sufficient reason,"" as held by the Privy Council, cannot be given a very wide meaning and must be given the meaning in

the context of this special provision, namely that the reasons are analogous to those preceding these words.

3. In the present case, the Controller did not exercise due diligence. Further, there has been no discovery of new and important matter or

evidence. The ruling which has been referred to in the application appears to be the same as referred to in the ""Words and Phrases Judicially

defined."" (Vol. I), by Roland and Burrows, while giving the meaning of the word "Correspond". Consequently the case referred to in the

application cannot be treated as a new and important matter.

Further, the matter or evidence contemplated by O. 47, R. 1, C. P. C, is one of evidence of facts and not of any foreign case law which may or

may not be helpful. It may be mentioned that the ruling was not with the learned Counsel and could not be produced before the Court. The second

part of O. 47, R. 1, C. P. C, is clearly inapplicable, as there is no mistake or error apparent on the face of the record.

4. The points raised in paras. 1 to 3 of the application had already been urged by Shri Mohd. Yaqub Khan, counsel for the Controller, and, in fact,

what has been mentioned in these paragraphs was already put before me by one party or the other. In para. 4 of the application there is a

reference to an English case. On this point I have already indicated my opinion. Consequently, the present application, even if moved by way of

review after the pronouncement of the order, could not be allowed.

5. The application is hereby rejected and the order is now being signed and formally pronounced by me.